The Hon'ble Sri Justice B. Sudershan Reddy
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The Hon'ble Sri Justice K.C. Bhanu

W.P. No. 16750 of 1994

O R D E R: (per Sri Justice K.C. Bhanu)

This writ petition is filed to issue a writ of Certiorari or any other appropriate writ or order or direction to call for the records pertaining to the proceedings of the respondent dated 2.4.1994 in R.Dis.No.714/92 and to quash the same.

The brief allegations in the affidavit accompanying the petition are, that the writ petitioners were the trustees of the tank known as Uracheruvu in Nagulapalem village of Prakasam District and the said tank is being used for drinking water purpose by the villagers of Nagulapalem, Uppatur and other surrounding villagers. For the maintenance and upkeep of the said tank, land to an extent of Ac.12-51 cents in S.No.65/1, Ac.2-71 cents in S.No.65/2 and Ac.4-60 cents in S.No.74/1 was endowed by one Rajamanuru Venkatesam 30 years prior to 1216 as entered in the Inam Fair Register. The said grant was made originally in favour of Kolla Venkatesham. The tank was being maintained from out of the funds derived from the lands. The succesors of Kolla Venkatesham were maintaining the tank. Thereafter Kolla Subba Rayudu and Kolla Venkaiah became trustees by succession. Before his death Kolla Venkaiah appointed the petitioners and 8 others in his place by a registered settlement deed as trustees. The Inam Dy. Tahsildar, Bapatla granted patta in favour of Kolla Subba Rayudu and Kolla Venkaiah in the year 1961. Some of the successors and the original grantee filed an appeal before the Revenue Divisional Officer, Ongole who set aside the patta issued in respect of Kolla Venkaiah and Kolla Subba Rayudu for the land in S.No.65/1 and remanded the matter to

the R.D.O., Parchur for fresh enquiry. Against that order, the trustees preferred a revision before the Commissioner of Survey, Settlement and Land Records, Hydrabad, who in turn by his order dated 21.12.1993 held that the Inam is to the Institution and no such patta could be granted to the individual and therefore directed the Inam Tahsildar to issue a patta in favour of the Endowments Department in respect of S.No.65/1. In respect of other two items, he directed the Mandal Revenue Officer to hold enquiry and pass appropriate orders. Thereafter, the respondent herein passed an order dated 2.4.1994 holding that the other two lands are not inam lands. The Tahsildar did not refer to the Inam Fair Register or the revenue records. He came to the conclusion that the lands are not inam lands, basing on some settlement registers. He did not give any notice to the trustees or to the Endowments Department. no enquiry was conducted and the order passed by the respondent is without jurisdiction. Hence the writ petition.

Learned counsel for the petitioners contended that the impugned order suffers from serious infirmities as no opportunity is given to any of the parties and respondent violated the principles of natural justice before passing the order and therefore the order cannot be sustainable.

Learned counsel for the impleaded respondents 2 to 7 contended that the orderpassed by the Inam Dy. Tahsildar in the year 1961 has become final and the same cannot be reopened at this stage and as per the orders of the Inam Dy. Tahsildar the patta is not granted in favour of the institution and therefore neither the petitioners nor the Endowments Department has any right to property. Hence he prays to dismiss the writ petition.

Bathula Seetharamaiah and 7 others of Nagulapalem village filed an appeal under Section 7(2) of the Inams Abolition Act, 1956 against the orders of the Inam Dy. Tahsildar, Bapatla granting ryotwari patta to Kolla Subba Rayudu and Kolla Venkaiah for Ac.12-52 cents in S.No.65/1 of Upputur village vide T.D. No. 264 dated

13.12.1961. The said appeal was allowed cancelling the patta granted in favour of Kolla Subba Rayudu and Kolla Venkaiah and the R.D.O. directed the M.R.O., Parchur to conduct de novo enquiry and issue ryotwari patta under the Inams Abolition Act to the eligible occupants. Aggrieved by the same, Kolla Subba Rayudu and Kolla Tulisamma filed revision before the Commissioner, Survey, Settlements and Land Records. The Commissioner after considering the material on record ordered for issuance of patta in respect of land in S.No.65/1 in favour of the Endowments Department. In respect of the lands in S.Nos. 65/2 and 74/1, the M.R.O. was directed to conduct an enquiry under Sections 3 and 7 of the Act and pass appropriate orders. Thereafter the impugned proceedings have been issued.

As seen from the impugned proceedings, as per the re-settlement register of the year 1922 of Uppatur village the land in S.No.65/1 to an extent of Ac.12-52 cents alone is classified as Inam. In respect of the lands in S.Nos. 65/2 and 74/1, they were classified as Government land and they were not included in the title deed No.264 of the Inam B. Register. It is further held that the land in those survey numbers is not inam land. Consequently there is no necessity to hold any enquiry under Section 3 of the Inams Abolition Act as directed by the Commissioner, Survey, Settlements and Land Records. Challenging the same, the present writ petition is filed.

Admittedly no notice is given to any of the parties including the writ petitioners and the impleaded respondents and also the Endowments Department before passing the order. On this ground alone the order is liable to be set aside. In the order of the Commissioner, Survey, Settlements and Land Records it is observed that as per the Inam Fair Register the land in S.Nos. 65/2 and 74/1 is not a personal inam to be enjoyed by Kolla Venkatesham and his successors. The Commissioner specifically directed the Mandal Revenue Officer, Parchur to conduct a de novo enquiry under Sections 3 and 7 of the Act in respect of S.Nos. 74/1 and 65/2 to decide the issue whether the land in these two survey numbers

belongs to the inam land or patta land, if so, who is entitled for the patta if it is inam land. Therefore, it is the duty of the Mandal Revenue Officer to hold enquiry as contemplated under Sections 3 and 7 of the Inams Abolition Act. He cannot take his own decision since he is quasi-judicially subordinate to the Commissioner, Survey, Settlements and Land Records. He cannot bypass the orders of the higher quasi-judicial authority and decide the matter that there is no matter to conduct enquiry. The order of the M.R.O. is perverse inasmuch as he has not followed the orders of the revisional authority. The procedure for conducting enquiry to determine whether any land is in ryotwari, zamindari or inam land or that the inam land is held by any institution, he has to follow the procedure contemplated under Sub-Sections (2) and (3) of Section 3 of the Act. Sub-Section (2) contemplates that before holding enquiry the Tahsildar shall cause to publish in the village in the prescribed manner requiring any person or institution claiming any interest in any inam land to file before him a statement of particulars in respect of the lands. Thereafter, he shall give the persons, institutions concerned a reasonable opportunity of adducing any evidence in support of their case and also examine the relevant documents in respect of the possession of the Government and and give his decision in writing. Admittedly the Mandal Revenue Officer did not follow the procedure contemplated. Therefore, the order under challenge is liable to be set aside. Accordingly the impugned order is set aside directing the Mandal Revenue Officer, Parchur to conduct enquiry as contemplated under Section 3 of the Act within three months from the date of receipt of a copy of this order and pass appropriate orders as directed by the Commissioner, Survey, Settlements and Land Records.

The writ petition is accordingly allowed. No order as to costs.

B. Sudershan Reddy, J.

K.C. Bhanu, J.

Date: --11—2004.

MVB.